

[Counsel listed on signature page]

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: APPLE INC. SMARTPHONE
ANTITRUST LITIGATION

*This Document Relates to:
ALL ACTIONS*

Civil Action No. 2:24-md-03113

(JXN) (LDW) MDL 3113

JOINT AGENDA AND STATUS REPORT

Pursuant to the Court’s July 25, 2024 Case Management Order Number 1, ECF No. 7, and December 28, 2024 Text Order, ECF No. 60, Direct Purchaser Plaintiffs, Indirect Purchaser Plaintiffs, and Direct Apple Watch Purchaser Plaintiff (collectively, “Plaintiffs”) and Defendant Apple Inc. (“Apple” and, collectively with Plaintiffs, “the Parties”), respectfully submit the following Joint Status Report and Joint Agenda for the Initial Case Management Conference.

I. Joint Status Report

On March 21, 2024, the United States and sixteen states filed a civil lawsuit against Apple, accusing it of having violated Section 2 of the Sherman Act (15 U.S.C. § 2), as well as various state competition laws. *United States v. Apple Inc.*, No. 2:24-cv-04055 (JXN) (LDW) (D.N.J.) (the “Government Action”).¹ Beginning on March 22, 2024, Plaintiffs filed class actions on behalf of direct purchasers of iPhones (“DIP”), indirect iPhone purchasers (“IIP”), and direct Apple Watch purchasers (“DAWP”) (collectively, the “Private Purchaser Actions”). On June 7, 2024, the Judicial Panel on Multidistrict Litigation centralized the actions in this Court under 28 U.S.C. § 1407.²

¹ The complaint was subsequently amended on June 11, 2024. Case No. 2:24-cv-4055 (JXN) (LDW) ECF No. 51.

² On November 14, 2024, one of the DIP plaintiffs, Kyle Whiteside, filed a motion to remand his case to state court. Case No. 2:24-cv-9658 (JXN) (LDW) ECF No. 35. Apple filed its opposition on January 6, 2025, *id.* ECF No. 41, and Plaintiff Whiteside’s reply is due on January 21, 2025. The Court has not scheduled oral argument.

On July 25, 2024, the Court issued Case Management Order Number 1 and consolidated the actions for pretrial purposes, ordering Plaintiffs to submit proposals for leadership. On October 17, 2024, the Court appointed leadership for the putative DAWP class and the putative IIP class (minus the proposed executive committee). ECF No. 34. After multiple rounds of briefing and with the oversight and assistance of the Court, the putative DIP and IIP classes each filed consensual leadership proposals, and the Court appointed leadership for the putative DIP class and an executive committee to support co-leads for the putative IIP class on December 19 and 27, respectively. ECF Nos. 57, 59. On December 28, 2024, the Court ordered class counsel for all three groups and Apple to submit a joint agenda and status report by January 10, 2025. ECF No. 60.

Meanwhile, Apple moved to dismiss the Government Action in August 2024. *See* Case No. 2:24-cv-04055 (JXN) (LDW) ECF No. 86. The Court held a hearing on the motion on November 20, 2024 and took the matter under submission.

The Court also ordered the parties in the Government Action to file a proposed Protective Order, ESI Protocol, and Source Code Protocol, and/or a joint letter presenting any disputes as to the terms of these documents, no later than September 20, 2024. *Id.* ECF No. 94. The parties in the Government Action filed a letter brief on September 20, 2024, outlining disputes regarding those items. *Id.* ECF No. 117. Subsequently, various non-parties objected to the parties' proposed protective

orders. *See, e.g., id.* ECF Nos. 154, 156, 157. The Court held a hearing on the dispute raised in the letter brief on October 10, 2024. *Id.* ECF No. 125.

On December 11, 2024, the Court set an initial scheduling conference for February 27, 2025 in the Government Action, and ordered the parties to submit a discovery plan seven days prior. Case No. 2:24-cv-04055 (JXN) (LDW) ECF No. 211.

II. Parties' Positions Regarding Next Steps

First, given that the issues raised by the private plaintiffs' complaints overlap in substantial part with those raised in the Government Action, the Parties agree that Plaintiffs shall file consolidated complaints—one consolidated complaint for the putative DIP class, one for the putative IIP class, and one for the putative DAWP class—thirty (30) days after the Court enters an order on the motion to dismiss the Government Action. The Parties further agree that they will discuss in good faith any potential changes to this timeline if the Court's order on Apple's motion to dismiss the Government Action warrants adjustment of this deadline.

Second, with respect to coordination among the related cases, Plaintiffs and Apple support coordination and streamlining of the proceedings wherever possible and will endeavor to coordinate with the Government in all feasible respects, including on implementation of early case management orders and discovery protocols.

Third, Plaintiffs in the Private Purchaser Actions propose, as an initial step, that Apple reproduce to the private Plaintiffs all documents, data, investigative deposition transcripts, and other materials obtained to date by the Government in connection with its investigation of and action against Apple to the extent such materials are in Apple's possession, custody, or control. Apple maintains that such a production is unwarranted at this time for several reasons. The Parties will continue to meet and confer regarding this issue and will apprise the Court if they are unable to resolve the disagreement.

III. Joint Agenda for Initial Case Management Conference

Having met and conferred, the Parties propose the following agenda for the first case management conference:

- Initial case management orders: Protective Order, ESI Protocol, Source Code Protocol, Expert Discovery Stipulation, Deposition Protocol;
- Coordination among the related cases; and
- Scheduling Order(s) for Initial Case Deadlines (based on the date the consolidated amended complaints are filed).

Dated: January 10, 2025

Cynthia E. Richman (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1700 M Street, N.W.

Respectfully Submitted,

s/ Liza M. Walsh

Liza M. Walsh
Douglas E. Arpert
WALSH PIZZI O'REILLY FALANGA LLP

Washington, DC 20036-4504
(202) 955-8234
crichman@gibsondunn.com

Three Gateway Center
100 Mulberry Street, 15th Floor
Newark, NJ 07102
(973) 757-1100
lwalsh@walsh.law
darpert@walsh.law

Daniel G. Swanson (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
(213) 229-7000
dswanson@gibsondunn.com

Julian W. Kleinbrodt (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
One Embarcadero Center, Suite 2600
San Francisco, CA 94111-3715
(415) 393-8200
jkleinbrodt@gibsondunn.com

Devora W. Allon (*pro hac vice*)
Alexia Brancato (*pro hac vice*)
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY
(212) 446-4800
devora.allon@kirkland.com
alexia.brancato@kirkland.com

Craig Primis (*pro hac vice*)
Winn Allen (*pro hac vice*)
Mary E. Miller (*pro hac vice*)
Luke McGuire (*pro hac vice*)
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 389-5000
cprimis@kirkland.com
winn.allen@kirkland.com
mary.miller@kirkland.com
luke.mcguire@kirkland.com

Attorneys for Defendant Apple Inc.

William Christopher Carmody
Shawn J. Rabin
SUSMAN GODFREY LLP
One Manhattan West, 50th Floor
New York, NY 10001-8602
Tel: (212) 336-8330
Email: bcarmody@susmangodfrey.com
Email: srabin@susmangodfrey.com

/s/ James E. Cecchi
James E. Cecchi
CARELLA BYRNE CECCHI
BRODY & AGNELLO, PC
5 Becker Farm Road
Roseland, NJ 07068
Tel: 973-994-1700
Email: jcecchi@carellabyrne.com

Christopher A. Seeger
SEEGER WEISS, LLP
55 Challenger Road
Ridgefield Park, NJ 07660
Tel: 973-639-9100
Email: cseeger@seegerweiss.com

Steven W. Berman
HAGENS BERMAN SOBOL
SHAPIRO, LLP
1301 Second Avenue
Suite 2000
Seattle, WA 98101
Tel: 206-623-7292
Email: steve@hbsslaw.com

Dena Sharp
GIRARD SHARP LLP
601 California Street, Suite 1400
San Francisco, CA 94108
Tel: 415-981-4800
Email: dsharp@girardsharp.com

Melinda R. Coolidge
HAUSFELD LLP
888 16th Street, NW Suite 300
Washington, DC 20006
Tel: (202) 540-7200
Email: mcoolidge@hausfeld.com

Co-Lead Interim Class Counsel for Direct Purchasers' Track

Joseph J. DePalma
LITE DEPALMA GREENBERG
& AFANADOR, LLC
570 Broad Street, Suite 1201
Newark, NJ 07102
Tel: (973) 623-3000
Email: jdepalma@litedepalma.com

Michael Critchley Sr.
CRITCHLEY, KINUM & LURIA,
LLC
75 Livingston Avenue
Roseland, New Jersey 07068
Tel: (973) 422-9200
Email: mcritchley@critchleylaw.com

*Liaison Counsel for Direct Purchasers' Trial Counsel/Direct Purchasers' Track
Track*

/s/ Stanley O. King

Stanley O. King, Esq.

**JAVERBAUM WURGAFT HICKS
KAHN WIKSTROM & SININS,
P.C.**

231 S. Broad Street
Woodbury, NJ 08096

Tel: 856.845.3001

Fax: 856.845.3079

Stanley O. King

Attorney ID No. 03413-1996

*Liaison Counsel for Indirect iPhone
Purchaser Plaintiffs*

Michael Dell'Angelo

Candice J. Enders

BERGER MONTAGUE PC

1818 Market Street, Suite 3600
Philadelphia, PA 19103

Tel: (215) 875-3000

mdellangelo@bm.net

cenders@bm.net

Heidi M. Siltan

Jessica N. Servais

Joseph C. Bourne

**LOCKRIDGE GRINDAL NAUEN
PLLP**

100 Washington Avenue South, Suite
2200

Minneapolis, MN 55401

Tel: (612) 339-6900

hmsilton@locklaw.com

jnservais@locklaw.com

jcbourne@locklaw.com

Matthew S. Weiler
Todd M. Schneider
Jason H. Kim
Mahzad K. Hite
Raymond S. Levine
**SCHNEIDER WALLACE
COTTRELL KONECKY LLP**
2000 Powell Street, Suite 1400
Emeryville, CA 94608
Tel: (415) 421-7100
mweiler@schneiderwallace.com

William G. Caldes
Jeffrey L. Spector
Cary Zhang
**SPECTOR ROSEMAN &
KODROFF, P.C.**
2001 Market Street, Suite 3420
Philadelphia, PA 19103
Tel: (215) 496-0300
bcaldes@srkattorneys.com
jspector@srkattorneys.com
czhang@srkattorneys.com

Interim Co-Lead Counsel for Indirect iPhone Purchaser Plaintiffs

David C. Frederick
Aaron M. Panner
Scott K. Attaway
Ariela Migdal
Alex A. Parkinson
KELLOGG, HANSEN, TODD
FIGEL & FREDERICK, P.L.L.C.
1615 M Street NW, Suite 400
Washington, DC 20036
Tel.: (202) 326-7900

George A. Zelcs
Marc A. Wallenstein
David Walchak
KOREIN TILLERY LLC
205 N. Michigan Avenue, Suite 1950
Chicago, IL 60601
Tel.: (312) 641-9750

Carol O'Keefe
Andrew Ellis
KOREIN TILLERY LLC
505 N. 7th Street, Suite 3600
St. Louis, MO 63101
Tel.: (314) 241-4844

/s/ Thomas R. Curtin
Thomas R. Curtin
Kathleen N. Fennelly
MCELROY, DEUTSCH,
MULVANEY & CARPENTER, LLP
1300 Mount Kemble Avenue
Morristown, NJ 07962
Tel: (973) 993-8100
tcurtin@mdmc-law.com

*Liaison Counsel for the Proposed
Apple Watch Direct Purchaser Class*

Steven F. Molo
Jonathan Barbee
MOLOLAMKEN LLP
430 Park Avenue
New York, NY 10022
Tel.: (212) 607-8160

Jordan A. Rice
Eric A. Posner
MOLOLAMKEN LLP
300 N. LaSalle Street
Chicago, IL 60601
Tel.: (312) 450-6700

Jennifer Fischell
Kayvon Ghayoumi
MOLOLAMKEN LLP
600 New Hampshire Avenue, N.W.
Washington, DC 20037
Tel.: (202) 556-2000

*Attorneys for Plaintiff Joseph Giamanco and Interim Co-Lead Counsel for the
Proposed Apple Watch Direct Purchaser Class*